

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

FRANCISCO S. ROJAS,

Petitioner,

V.

PATRICK GLEBE,

Respondent.

CASE NO. C13-5750 BHS

ORDER STRIKING MOTION FOR EXTENSION OF TIME

This matter comes before the Court on Petitioner Francisco S. Rojas's ("Rojas")

motion for extension of time to file a response (Dkt. 20). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby strikes the motion for the reasons stated herein.

On August 29, 2013, Rojas filed a habeas corpus petition challenging his custody under a state court judgment and sentence. Dkt. 1. Respondent Patrick Glebe (“Glebe”) answered the petition. Dkt. 13. On November 27, 2014, the Honorable J. Richard Creatura, United States Magistrate Judge, issued a Report and Recommendation (“R&R”), recommending that the Court deny the petition. Dkt. 16. On December 12,

1 2013, Rojas objected to the R&R. Dkt. 17. On January 9, 2014, the Court adopted the
2 R&R, and denied the petition. Dkt. 18. On January 10, 2014, the Court entered its
3 judgment. Dkt. 19. On February 7, 2014, Rojas filed a timely notice of appeal. Dkt. 21.

4 On February 7, 2014, the same day Rojas filed his notice of appeal, he filed the
5 instant motion for a 60-day extension of time to “respond to the State’s response” (Dkt.
6 20), which the Court can only reasonably interpret as a motion for extension of time to
7 file a response to the State’s answer to Rojas’s habeas petition, as Glebe had filed no
8 other response at the time of Rojas’s motion.

9 However, once a notice of appeal is filed from a final judgment, the district court
10 is divested of jurisdiction. *Laurino v. Syringa General Hosp.*, 279 F.3d 750, 755 (9th Cir.
11 2002); *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58- 59 (1982). Because
12 Rojas filed a timely notice of appeal, this Court is divested of jurisdiction to consider the
13 instant motion.

14 Therefore, it is hereby **ORDERED** that Rojas’s motion for an extension of time is
15 **STRICKEN** from the Court’s calendar.

16 Dated this 11th day of March, 2014.

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BENJAMIN H. SETTLE
United States District Judge